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IFW \$DAE
PATENT
574313-2180.3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : ALLAN *et al.*
U.S. Serial No.: 10/624,049
Filed : July 21, 2003
For : PORCINE CIRCOVIRUSES, VACCINES AND DIAGNOSTIC
REAGENTS
Art Unit : 2673

745 Fifth Avenue
New York, NY 10151

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 24, 2004.

Anne-Marie C. Yvon, Reg. No. 52,390

(Name of Applicant, Assignee or Registered Representative)

Anne-Marie C. Yvon
Signature

May 24, 2004

Date of Signature

**RESPONSE TO NOTICE OF OMMITTED ITEMS AND
PETITION TO BE AWARDED FILING DATE**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notice of Omitted Item(s) in a Nonprovisional Application mailed on April 15, 2003, setting a two-month term for reply. Enclosed, along with a copy of the Notice of Omitted Item(s), is Figure 7A.

The Notice of Omitted Item(s) in a Nonprovisional Application required submission of Figure 7A which was inadvertently omitted during the filing of the above-identified application. A copy of Figure 7A is enclosed.

Also enclosed is a copy of the Utility Patent Application Transmittal form that was filed with the present application on July 21, 2003. Box 18 of the Transmittal states:

The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

This application is a divisional of U.S. application Serial No. 09/884,514, filed on June 19, 2001, now U.S. Patent No. 6,660,272. As the Transmittal shows and the return receipt postcard (copy enclosed) verifies, an oath or declaration was supplied under Box 5b. Therefore, Figure 7A, which was inadvertently omitted, is considered part of the application disclosure as of July 21, 2003 due to the incorporation by reference stated on the Transmittal. Accordingly, the present application should be awarded a filing date of July 21, 2003, and such action is requested.

The petition fee of \$130.00 is enclosed. The Commissioner is authorized to charge any additionally required fees to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: Anne-Marie C. Yvon
Thomas J. Kowalski
Reg. No. 32,147

Anne-Marie C. Yvon, Ph.D.
Reg. No. 52,390
Tel. (212) 588-0800
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|-----------------------|------------------------|
| 10/624,049 | 07/21/2003 | Gordon Allan | 454313-2180.3 |

20999
 FROMMER LAWRENCE & HAUG
 745 FIFTH AVENUE- 10TH FL.
 NEW YORK, NY 10151



CONFIRMATION NO. 9983

WITHDRAWAL NOTICE



OC000000012372289

Date Mailed: 04/15/2004

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 01/13/2004 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. We apologize for any inconvenience this caused.

DOCKETED

APR 20 A 9:59
 FROMMER, LAWRENCE
 & HAUG, LLP

A copy of this notice MUST be returned with the reply.

Z. Aray
 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/624,049 | 07/21/2003 | Gordon Allan | 454313-2180.3 |

20999
 FROMMER LAWRENCE & HAUG
 745 FIFTH AVENUE- 10TH FL.
 NEW YORK, NY 10151



CONFIRMATION NO. 9983

FORMALITIES LETTER



OC000000012372559

Date Mailed: 04/15/2004

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) **7A** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

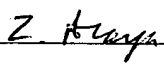
III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the

references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.


Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



Serial No. TBA File No. 454313-2180.3 By Acyl/mde

Title In the Matter of the Application of Alan et al.

The following due 2/14/1 in the U.S. Patent Office, was received in the Patent Office

☐ Affidavit ☐ Declaration

☐ Amendment

☒ Preliminary Amendment

☐ Amendment After Final Rejection

☐ Request for Extension of Time

☐ Provisional Patent Application

☒ Application for Patent, including 36 Pages Specification 24 Claims

☒ Declaration ☐ Oath ☐ Power

☒ Request for Filing Continuation Divisional

☒ Application 2 sheets, in duplicate

☐ File Wrapper Continuation Patent Application

☐ PCT Request 2 sheets, in duplicate

☐ Transmittal Letter to the US/RO

☐ Assignment ☐ Recordation Cover Sheet

☐ Express Mail Mailing Certificate

☐ (separate sheet)

Check No. 2141 for \$ 1732.00

☐ Deposit Account Order Form

☒ Drawing 18 Sheet(s)

☒ Information Disclosure Statement

☒ PTO Form 1449

☐ Issue Fee Transmittal

☐ Brief ☐ Letter

☐ Application for TM Registration

☐ Including 2 Specimens

☐ Status Request ☐ Notice of Appeal

☐ Petition ☐ Response

☐ Priority Document

☒ Small Entity Declaration

Required

21707 U.S. PTO 10/624049 07/21/03

UTILITY

PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 454313-2180.3

First Inventor ALLAN et al.

Title PORCINE CIRCOVIRUSES, VACCINES AND DIAGNOSTIC REAGENTS

Express Mail Label No. EV142956112US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original, and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 36]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix.
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 18]
5. Oath or Declaration [Total Pages 16]
 - a. ☐ Newly executed (original or copy)
 - b. ☒ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
 - i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76.

Addressed to: Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
 - a. ☐ Computer Readable Form (CFR)
 - b. Specification sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☒ paper
 - c. ☒ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & documents(s))
10. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney
(when there is an assignee)
- ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Request and Certification under 35 U.S.C. 122(b)(2)(B)(i).
Applicant must attach from PTO/SB/35 or its equivalent.
17. ☐ Other: _____

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☒ Divisional ☐ Continuation-in-part (CIP)
Prior application information: Examiner: Shanon A. Foley

of prior application No.: 09/884/514
Group/Art Unit: 1648

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Labelor ☐ Correspondence address below

| | | | |
|-------------------|---------------------------|-----------------------------------|---------------|
| Name | | | |
| Address | | | |
| City | State | Zip Code | |
| Country | Telephone | Fax | |
| Name (Print/Type) | Thomas J. Kowalski | Registration No. (Attorney/Agent) | 32,147 |
| Signature | <i>Thomas J. Kowalski</i> | Date | July 21, 2003 |



15/18

FIG. 7A

8con.s = séquence clone pGEM-7/8
pcveco = séquence souche PCV PK/15

SCORES Init1: 2517 Initn: 3774 Opt: 4010
75.8% identity in 1785 bp overlap

```
      1769      1759      1749      1739      1729      1719
8con.s GAATTCTGGCCCTGCTCCCCCATCACCCAGGGTGATAGGGGAGTGGGCTCCACTGCTGTT
      ||||| | ||| | ||||| ||| | | | | | | | | | | | | | | | | |
pcveco GAATTTTACCCAGAGACCCCATCACCTCTAATCAAAGAGGTGTTGGGTCCACTGTTGTT
              10          20          30          40          50          60

      1709      1699      1689      1679      1669      1659
8con.s ATTCTAGATGATAACTTTGTAAACAAAGGCCACAGCCCTAACCTATGACCCATATGTAAAC
      || | |||| | ||||| |||| | | | ||||| ||| | |||
pcveco ATCTTGGATGCCAACTTTGTAAACCCCTCCACCAACTTGGCCTATGACCCCTATATTAAC
              70          80          90          100         110         120

      1649      1639      1629      1619      1609      1599
8con.s TACTCCTCCCGCCATACAATCCCCAACCCTTCTCCTACCACTCCCGTTACTTCACACCC
      ||||| ||||| || || | ||||| ||||| ||||| ||||| ||||| |||||
pcveco TACTCCTCCCGCCACACCATAAGGCAGCCCTTTACCTACCACTCCAGGTACTTCACCCCC
              130         140         150         160         170         180

      1589      1579      1569      1559      1549      1539
8con.s AAACCTGTTCTTGACTCCACTATTGATTACTTCCAACCAAATAACAAAAGGAATCAGCTT
      ||||| || ||| || ||||| |||| | ||||| ||||| ||||| |||||
pcveco AAACCTGAGCTGGACCAAACAATTGATTGGTTCCACCCAAATAATAAAAGAAACCAGCTG
              190         200         210         220         230         240

      1529      1519      1509      1499      1489      1479
8con.s TGGCTGAGGCTACAAACCTCTAGAAATGTGGACCACGTAGGCCTCGGCACTGCGTTCGAA
      |||| | || | || | |||| | || | ||||| ||||| ||||| |||||
pcveco TGGCTCCATTAAATACCCACACCAATGTCGAGCACACAGGCCTCGGCTATGCGCTCCAA
              250         260         270         280         290         300

      1469      1459      1449      1439      1429      1419
8con.s AACAGTATATAC-GACCAGGACTACAATATCCGTGTAACCATGTATGTACAATTCAGAGA
      || | | | || | || | || | || | || | || | || | || | || | || |
pcveco AA-TGCAGCCACAGCCCAAATTATGTGGTAAGGCTGACTATTTATGTACAATTCAGAGA
              310         320         330         340         350

      1409      1399      1389      1379      1369      1359
8con.s ATTTAATCTTAAAGACCCCCCACTTAAACCCTAAATGAATAATAAAAACCATTACGAAGT
      |||| | || ||||| | |||| | |||| | ||||| ||||| ||||| |||||
pcveco ATTTATCCTAAAAGACCTC-----TAAA---TAAAT-AAAAATAAAAACCATTACGATGT
              360         370         380         390         400         410

      1349      1339      1329      1319      1309      1299
8con.s GAT---AAAAAAGACTCAGTAATTTATTTTCATATGGAAATTCAGGGCATGGGGGGGAAAG
      || | ||||| ||||| ||||| ||||| ||||| ||||| ||||| |||||
pcveco GATAACAAAAAAGACTCAGTAATTTATTTTATATGGGAAAAGGCACAGGGTGGGTCCAC
              420         430         440         450         460         470
```